THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24742 of 2005

Dated 22nd November 2005

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Between:

Fakeer Pasha

…Petitioner

and

The Depot Manager, APSRTC,

Mahaboobnagar, Mahaboobnagar District.

…Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24742 of 2005

O R D E R:

The petitioner is employed as driver in the APSRTC. Disciplinary proceedings were initiated against him, by issuing a charge sheet, dated 21.4.1995. An enquiry was conducted, and on the basis of the enquiry report, dated 6.7.1996, the Depot Manager, respondent herein, passed an order dated 18.8.1996, imposing the punishment of stoppage of annual increment, for a period of 18 months, with cumulative effect. The petitioner challenges the same, on the ground that before imposing the major penalty of stoppage of annual increment, with cumulative effect, the respondent did not issue any show-cause notice.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent.

The respondent initiated disciplinary proceedings against the petitioner, on certain allegations. In view of the explanation submitted by the petitioner, the respondent conducted enquiry. To that extent, the respondent strictly followed the procedure prescribed by law. However, he imposed the penalty of stoppage of annual increment, for a period of 18 months, with cumulative effect, without issuing any show-cause notice, obviously under the impression that it is a minor penalty. In view of the judgment of the Supreme Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB***, such a penalty amounts to major punishment. It could have been inflicted, only after conducting enquiry, and after issuing show-cause notice. While the first part of it has been complied with, the second part was not followed.

On this short ground, the writ petition is allowed, and the order dated 18.8.1996 is set aside. The matter is remanded to the respondent, for fresh consideration. It is made clear that in case, any relief is granted to the petitioner, consequent on the remand, the petitioner shall not be entitled for any benefit for the period from 26.4.1999, till the date of this order, because of the reason that he did not pursue the remedy all these years. There shall be no order as to costs.

22nd November 2005

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